



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1995

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-033

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 30630.

The City of Houston (the "city") has received a request for an audiotape of a 9-1-1 telephone call relating to a bank robbery that occurred in West Houston on November 18, 1994. You seek to withhold the requested information, which you have submitted to us for review, and claim that sections 552.101, 552.103, and 552.108 of the Government Code except it from required public disclosure.

Section 552.108 excepts from required public disclosure

(a) [A] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . [; and]

(b) [A]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution

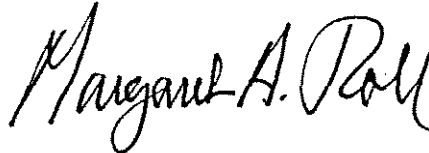
When applying section 552.108, this office distinguishes between information relating to cases that are still under active investigation and other information. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of*

Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Otherwise, when the "law enforcement" exception is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how its release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 3 (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). Whether information falls within the section 552.108 exception must be determined on a case-by-case basis. *Id.* at 2.

You advise us that the requested information relates to an on-going police investigation. Accordingly, we conclude that the city may withhold the requested information under section 552.108 of the Government Code. As we resolve this matter under section 552.108, we need not address the applicability of sections 552.101 and 552.103 at this time.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Margaret A. Roll". The signature is fluid and cursive, with the first name "Margaret" being more prominent.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Enclosures: Submitted audiotape

Ref.: ID# 30630

cc: Ms. Andrea Watkins
KRTV
P.O. Box 22810
Houston, Texas 77227
(w/o enclosures)